

57-13-1. Definitions.

As used in this act:

(1) "Solar easement" means a right, whether or not stated in the form of restriction, easement, covenant, or conditions in any deed, will, or other instrument executed by or on behalf of any owner of land or solar skyspace for the purpose of ensuring adequate exposure of a solar energy system as defined herein.

(2) "Solar energy system" means a system of apparatus and equipment capable of collecting and converting incident solar radiation into heat, or mechanical or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to point of use, including, but not limited to, water heating, space heating or cooling, electric energy generation or mechanical energy generation.

(3) "Passive solar system" means a system which uses structural elements of the building, to provide for collection, storage, and distribution of solar energy for heating or cooling.

(4) "Solar skyspace" means the space between a solar energy collector and the sun which must remain unobstructed such that on any given clear day of the year, not more than 10% of the collectable insolation shall be blocked.

Enacted by Chapter 82, 1979 General Session

57-13-2. Creation of solar easement -- Writing required -- Contents -- Enforcement.

(1) Any property owner may grant a solar easement in the same manner and with the same effect as a conveyance of an interest in real property. The easements shall be created in writing and shall be filed, duly recorded and indexed in the office of the recorder of the county in which the easement is granted. Such easements shall run with the land or lands benefited and burdened and shall constitute a perpetual easement, except that a solar easement may terminate upon the conditions stated herein.

(2) Any deed, will, or other instrument that creates a solar easement shall include, but the contents need not be limited to:

(a) a description of the real property subject to the solar easement and a description of the real property benefiting from the solar easement;

(b) a description of the vertical and horizontal angles, expressed in degrees and measured from the site of the solar energy system, at which the solar easement extends over the real property subject to the solar easement, or any other description which defines the three dimensional space, or the place and times of day in which an obstruction to direct sunlight is prohibited or limited;

(c) any terms or conditions under which the solar easement is granted or may be terminated;

(d) any provisions for compensation of the owner of the real property benefiting from the solar easement in the event of interference with the enjoyment of the solar easement, or compensation of the owner of the real property subject to the solar easement, or compensation of the owner of the real property subject to the solar easement for maintaining the solar easement; and

- (e) any other provisions necessary or desirable to execute the instrument.
- (3) A solar easement may be enforced by injunction or proceedings in injunction or other civil action.

Enacted by Chapter 82, 1979 General Session